

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

THERESA FORTNER, )  
                        )  
Petitioner,         )  
                        )  
vs.                   )      Case No. 4:15CV01298 SNLJ  
                        )  
ANGELA MESMER,     )  
                        )  
Respondent.         )

**MEMORANDUM AND ORDER**

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Theresa Fortner. I referred this matter to United States Magistrate Judge Patricia L. Cohen for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On September 28, 2018, Judge Cohen filed her recommendation that Fortner's habeas petition should be dismissed.

No objections to Judge Cohen's Report and Recommendation were filed. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Cohen and deny Fortner's habeas petition for the reasons stated in the Report and Recommendation dated September 28, 2018.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. *Cox*

*v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because Fortner has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

**IT IS HEREBY ORDERED** that Judge Cohen's Report and Recommendation, #23, filed September 28, 2018 is adopted and sustained in its entirety.

**IT IS FURTHER ORDERED** that Petitioner's Petition for Writ of Habeas Corpus, #1, is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability. A separate Judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 23<sup>rd</sup> day of January, 2019.

  
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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE